

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

In re:

Shirley White Hayden,

Debtor(s).

Case No. 21-03037-jw

Chapter 13

**OBJECTION TO CONFIRMATION**

Pecan Grove Property Owners Association Inc. (“POA”), a secured creditor in the above captioned case, by and through its undersigned attorney, hereby files its Objection to Confirmation of the Debtor’s Amended Plan (“Objection”), on the following grounds:

**Statutory Basis**

1. This Court has jurisdiction of this proceeding under 28 U.S.C. §157(b)(2)(G).
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1408 and § 1409
3. The statutory predicates for relief are 11 U.S.C. § 506, 522, 1323, 1325; Federal Rules of Bankruptcy Procedure 3015; and Local Bankruptcy Rules 3015-1, 3015-2, 3015-3.

**Facts**

4. POA is a creditor in the above captioned case and has a secured claim in the amount of \$85,019.81, as of the petition date of November 24, 2021.

5. POA’s claim arises from pre-petition dues owed by the Debtor to the POA. A detailed copy of the past due obligations is attached as **Exhibit A**.

6. POA’s right to assert claims against the Debtor is authorized by the Master Deed for the POA (“Master Deed”) which was recorded on May 11, 2005, and to which the Debtor’s residence is subject.

7. The Debtor’s residence is located at 252 Howle Avenue, A-2 Charleston, SC 29412-2495 Charleston County TMS: 343-07-00-287.

8. Specifically, the Master Deed provides for the levying of assessments against owners within the POA for unpaid dues and allows for the enforcement of those assessments by recording liens against the owner’s property. The relevant partition of the

Master Deed appears below. The Master Deed also entitles the POA to seek late fees, etc. for unpaid assessments and dues.

**10.2 Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to

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covenant and agree to pay to the Association: (i) annual assessments or charges ("Annual Assessments"); (ii) special assessments ("Special Assessments"); (iii) specific assessments ("Specific Assessments"); and (iv) an assessment upon the sale of a Unit ("Assessment Reserve Payment") all as herein provided. All such assessments, together with the late charges, interest, costs, and reasonable attorney's fees actually incurred shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any First Mortgage made in good faith and for value (except those accruing after the First Mortgagee forecloses or takes a conveyance in lieu of foreclosure). Such lien, when delinquent, may be enforced by suit, judgment, and/or foreclosure in the same manner as Mortgages are foreclosed under South Carolina law.

Such amounts shall also be the personal obligation of each Person who was the Owner of such Unit at the time when the assessment fell due and may be collected in the same manner as other debts or liens are collected under South Carolina law. Each Owner and each successor-in-title to the Unit shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors; unless otherwise provided, the Annual Assessments shall be paid in equal monthly installments due on the first day of each calendar month. No Owner may exempt such Owner from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, non-use of the Common Elements; the Association's failure to perform its obligations required or purportedly required under this Master Deed or applicable law; or inconvenience, discomfort, or purported or actual consequential damages arising from the Association's performance of its duties or deficiency therein. The lien provided for herein shall have priority as provided in the Act.

9. POA recorded a notice of lien for unpaid dues against the Debtor's residence on September 22, 2016, in the amount of \$7,813.25. See **Exhibit B**.

10. POA again recorded a notice of lien against the Debtor's residence for unpaid dues, fees, etc. on April 21, 2021, in the amount of \$85,069.81. See **Exhibit C**.

11. Debtor filed for bankruptcy on November 24, 2021.

12. An Amended Plan was filed on January 4, 2021, ("Amended Plan") where, for the first time, it proposed to avoid a judicial lien pursuant to 11 U.S.C. § 522 and specifically asserts the right to avoid the lien rights of POA.

13. POA intends to file a proof of claim in this case asserting only unpaid dues and assessments owed and will waive the late fees which have accrued. The amount POA intends to file as a claim will be \$7,730 plus some accrued but unbilled attorney's fees.

### **Argument**

POA files this objection to the treatment in the Amended Plan as its lien is not

avoidable because it is a consensual lien, not a judicial lien.

11 U.S.C. § 522(f) specifically provides:

(f) (1) Notwithstanding any waiver of exemptions but subject to paragraph (3), the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is—

(A) a judicial lien, other than a judicial lien that secures a debt of a kind that is specified in section 523(a)(5); or

(B) a nonpossessory, nonpurchase-money security interest in any—

(i) household furnishings, [household goods](#), wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a [dependent](#) of the debtor;

(ii) implements, professional books, or tools, of the trade of the debtor or the trade of a [dependent](#) of the debtor; or

(iii) professionally prescribed health aids for the debtor or a [dependent](#) of the debtor.

The Debtor is not attempting to avoid a lien against the personalty set forth in section (f)(1)(B), and is instead attempting to avoid a lien against her primary residence, which is real property, making the only applicable section for lien avoidance under 11 U.S.C. § 522(f), the judicial lien avoidance section.

The issue of determining if an association's liens are subject to avoidance under §522(f) was specifically addressed in [In re King, No. 96-1-7368-PM, 1997 Bankr. LEXIS 596, at \\*10 \(Bankr. D. Md. May 6, 1997\)](#). The judge determined that the lien was not a judicial lien because it was not created by a legal process or proceeding. The lien in the King case was created by the operation of the association documents, and because the lien was not a judicial lien it was not avoidable. POA's lien was created by the Master Deed and not by judicial process and as such it is also not avoidable as a judicial lien under 11 U.S.C. § 522.

The notices of liens filed by the POA are not judicial process but are the first step in the POA's process of notifying other creditors of the POA's lien rights. This is the first step in the POA's attempts to collect by foreclosing the Debtor's rights in her property. A bankruptcy court in Indiana found that a notice of lien by an association was not a

judicial process but notice to others of a consensual lien. See [In re Krause, No. 11-03666-JKC-7, 2011 Bankr. LEXIS 4075, at \\*8 \(Bankr. S.D. Ind. Oct. 20, 2011\)](#).

As set out in the fact section above POA will be filing a proof of claim for an amount significantly lower than what it is entitled to claim under the Master Deed. POA is offering to lower its claim, by waiving the late fees, despite being legally entitled to the higher amount. POA is seeking its actual damages only as a way of assisting the Debtor with her bankruptcy and this reduction is not a waiver of POA's rights for the fees allowed under the Master Deed should the Debtor fail to complete her bankruptcy successfully.

Because POA's claims are consensual lien rights against the Debtor's residence those claims are not avoidable pursuant to 11 U.S.C. § 522(f). Therefore, the treatment proposed in section 3.4 of the Amended Plan is not permitted under the Bankruptcy Code and the Amended Plan should not be confirmed. POA would request that this court deny confirmation and grant any additional relief as the Court may deem proper.

**Markham Law Firm, LLC**

Date of Service: January 21, 2022

/s/Sean Markham

Sean Markham, I.D. # 10145  
Attorney for Pecan Grove Property  
Owners Association Inc.,  
P.O. Box 20074  
Charleston, SC 29413-0074  
Tel: 843-284-3646  
sean@markhamlawsc.com

# Exhibit A

# ROG Coastal Property Management, LLC dba ROG Coastal Property Management

Lease: Hayden, H.  
Contact: Harry Hayden  
Contact: Joe Hayden

Property Address: 252 Howle Ave Apt A2  
Charleston, SC 29412-2495

*\$8030 total dues*

Balance as of 01/21/2022			Prepayments		Total Unpaid		Deposit Held	
\$85,019.81			\$0.00		\$85,019.81		\$0.00	
Transaction	Date	Ref #	Description	Payer Name	Deposit Date	Charges	Payments	Balance
Unpaid Charge	01/01/2022		4032 - Pecan Grove Income:PG H...			\$300.00✓		\$85,019.81
Deposited Payment	12/02/2021	1067	Payment of \$300.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	12/02/2021		\$300.00✓	\$84,719.81
Paid Charge	12/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00✓		\$85,019.81
Deposited Payment	11/29/2021	1062	Payment of \$300.00 applied to [12/01/21, acct 4032, \$300.00]	Harry Hayden	11/29/2021		\$300.00✓	\$84,719.81
Deposited Payment	11/02/2021	1060	Payment of \$300.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	11/02/2021		\$300.00✓	\$85,019.81
Unpaid Charge	11/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00✓		\$85,319.81
Deposited Payment	10/04/2021	1046	Payment of \$600.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	10/04/2021		\$600.00✓	\$85,019.81
Unpaid Charge	10/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00✓		\$85,619.81
Deposited Payment	09/03/2021	1029	Payment of \$600.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	09/03/2021		\$600.00✓	\$85,319.81
Unpaid Charge	09/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00✓		\$85,919.81
Unpaid Charge	08/13/2021		4049 - Pecan Grove Income:PG I...			\$1,150.00		\$85,619.81
Deposited Payment	08/04/2021	1019	Payment of \$600.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	08/04/2021		\$600.00✓	\$84,469.81
Unpaid Charge	08/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00		\$85,069.81

Transaction	Date	Ref #	Description	Payer Name	Deposit Date	Charges	Payments	Balance
Deposited Payment	07/06/2021	1006	Payment of \$600.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	07/06/2021		\$600.00	\$84,769.81
Unpaid Charge	07/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00		\$85,369.81
Deposited Payment	06/06/2021	0503	Payment of \$300.00 applied to [04/01/20, acct 4032, \$42,071.03] and \$300.00 applied to [06/01/21, acct 4032, \$300.00]	Harry Hayden	06/06/2021		\$600.00	\$85,069.81
Paid Charge	06/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00		\$85,669.81
Unpaid Charge	05/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00		\$85,369.81
Unpaid Charge	04/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00		\$85,069.81
Deposited Payment	03/21/2021	14609	Payment of \$300.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	03/21/2021		\$300.00	\$84,769.81
Unpaid Charge	03/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00		\$85,069.81
Deposited Payment	02/22/2021	14588	Payment of \$300.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	02/22/2021		\$300.00	\$84,769.81
Unpaid Charge	02/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00		\$85,069.81
Unpaid Charge	01/01/2021		4032 - Pecan Grove Income:PG H...			\$300.00		\$84,769.81
Unpaid Charge	12/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00		\$84,469.81
Unpaid Charge	11/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00		\$84,169.81
Unpaid Charge	10/10/2020		4044 - Pecan Grove Income:PG I...			\$7,624.52		\$83,869.81
Unpaid Charge	10/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00		\$76,245.29
Unpaid Charge	09/10/2020		4044 - Pecan Grove Income:PG I...			\$6,904.11		\$75,945.29
Unpaid Charge	09/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00		\$69,041.18
Unpaid Charge	08/10/2020		4044 - Pecan Grove Income:PG I...			\$6,276.47		\$68,741.18
Deposited Payment	08/04/2020	14462	Payment of \$300.00 applied to [08/01/20, acct 4032, \$300.00]	Harry Hayden	08/04/2020		\$300.00	\$62,464.71
Paid Charge	08/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00		\$62,764.71

Transaction	Date	Ref #	Description	Payer Name	Deposit Date	Charges	Payments	Balance
Deposited Payment	07/24/2020	14459	Payment of \$300.00 applied to [04/01/20, acct 4032, \$42,071.03]	Harry Hayden	07/24/2020		\$300.00 ✓	\$62,464.71
Unpaid Charge	07/10/2020		4044 - Pecan Grove Income:PG I...			\$5,705.88		\$62,764.71
Unpaid Charge	07/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00 ✓		\$57,058.83
Unpaid Charge	06/10/2020		4044 - Pecan Grove Income:PG I...			\$5,159.89		\$56,758.83
Deposited Payment	06/01/2020	14430	Payment of \$300.00 applied to [04/01/20, acct 4032, \$300.00]	Harry Hayden	06/01/2020		\$300.00 ✓	\$51,598.94
Unpaid Charge	06/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00 ✓		\$51,898.94
Unpaid Charge	05/10/2020		4044 - Pecan Grove Income:PG I...			\$4,690.81		\$51,598.94
Unpaid Charge	05/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00 ✓		\$46,908.13
Unpaid Charge	04/10/2020		4044 - Pecan Grove Income:PG I...			\$4,237.10		\$46,608.13
Partially Paid Charge	04/01/2020		4032 - Pecan Grove Income:PG H... : beginning balance from Ravenel			\$42,071.03		\$42,371.03
Paid Charge	04/01/2020		4032 - Pecan Grove Income:PG H...			\$300.00		\$300.00

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\$1200



## Pecan Grove Property Owners Association

Harry Hayden

00126-0988

Community Address: 252 Howle #A2  
Charleston, SC 29412

Date Settled:  
Unit Type: 01 - Unit Type 01

Mailing Address: 252 Howle #A2  
Charleston, SC 29412

Last payment date: Mon Feb 10, 2020  
Last payment amount: 800.00  
Current balance: 42,071.03

Trans Date	Transaction	Charges	Payments	Balance	Date Billed	Reference	Comments
12/31/2015	Assessment	2,780.00		2,780.00		beginning balance	prior mgmt
12/31/2015	Late Fee	100.00		2,880.00		beginning balance	prior mgmt
12/31/2015	Miscellaneous Charge	96.25		2,976.25		beginning balance	prior mgmt
12/31/2015	Assessment	280.00		3,256.25		beginning balance	prior mgmt
01/01/2016	Assessment	230.00		3,486.25		Monthly Charges	Recurring Charges: 01/01/2016
01/01/2016	Special Assessment	84.00		3,570.25		Monthly Charges	Recurring Charges: 01/01/2016
01/25/2016	Lockbox		-255.00	3,315.25		13017	Lock Box: 01/25/2016
02/01/2016	Assessment	230.00		3,545.25		Monthly Charges	Recurring Charges: 02/01/2016
02/01/2016	Special Assessment	84.00		3,629.25		Monthly Charges	Recurring Charges: 02/01/2016
02/02/2016	Lockbox		-230.00	3,399.25		13036	Lock Box: 02/02/2016
02/05/2016	Late Fee	303.50		3,702.75		Late Fee	Late Fee: 02/05/2016
02/29/2016	Lockbox		-230.00	3,472.75		13084	Lock Box: 02/29/2016
03/01/2016	Assessment	230.00		3,702.75		Monthly Charges	Recurring Charges: 03/01/2016
03/01/2016	Special Assessment	84.00		3,786.75		Monthly Charges	Recurring Charges: 03/01/2016
03/05/2016	Late Fee	303.50		4,090.25		Late Fee	Late Fee: 03/05/2016
03/31/2016	Lockbox		-230.00	3,860.25		13123	Lock Box: 03/31/2016
04/01/2016	Assessment	230.00		4,090.25		Monthly Charges	Recurring Charges: 04/01/2016
04/01/2016	Special Assessment	84.00		4,174.25		Monthly Charges	Recurring Charges: 04/01/2016
04/05/2016	Late Fee	303.50		4,477.75		Late Fee	Late Fee: 04/05/2016
05/01/2016	Assessment	230.00		4,707.75		Monthly Charges	Recurring Charges: 05/01/2016
05/01/2016	Special Assessment	84.00		4,791.75		Monthly Charges	Recurring Charges: 05/01/2016
05/05/2016	Late Fee	326.50		5,118.25		Late Fee	Late Fee: 05/05/2016
05/16/2016	Lockbox		-255.00	4,863.25		13202	Lock Box: 05/16/2016
06/01/2016	Assessment	230.00		5,093.25		Monthly Charges	Recurring Charges: 06/01/2016
06/01/2016	Special Assessment	84.00		5,177.25		Monthly Charges	Recurring Charges: 06/01/2016
06/05/2016	Late Fee	324.00		5,501.25		Late Fee	Late Fee: 06/05/2016
07/01/2016	Assessment	230.00		5,731.25		Monthly Charges	Recurring Charges: 07/01/2016
07/01/2016	Special Assessment	84.00		5,815.25		Monthly Charges	Recurring Charges: 07/01/2016
07/05/2016	Late Fee	347.00		6,162.25		Late Fee	Late Fee: 07/05/2016
07/07/2016	Legal Fees	50.00		6,212.25		Collection letter	Barr Unger 6/29/16
08/01/2016	Assessment	230.00		6,442.25		Monthly Charges	Recurring Charges: 08/01/2016
08/01/2016	Special Assessment	84.00		6,526.25		Monthly Charges	Recurring Charges: 08/01/2016
08/05/2016	Late Fee	370.00		6,896.25		Late Fee	Late Fee: 08/05/2016
09/01/2016	Assessment	230.00		7,126.25		Monthly Charges	Recurring Charges: 09/01/2016
09/01/2016	Special Assessment	84.00		7,210.25		Monthly Charges	Recurring Charges: 09/01/2016
09/05/2016	Late Fee	393.00		7,603.25		Late Fee	Late Fee: 09/05/2016
10/01/2016	Assessment	230.00		7,833.25		Monthly Charges	Recurring Charges: 10/01/2016
10/01/2016	Special Assessment	84.00		7,917.25		Monthly Charges	Recurring Charges: 10/01/2016
10/05/2016	Late Fee	416.00		8,333.25		Late Fee	Late Fee: 10/05/2016
11/01/2016	Assessment	230.00		8,563.25		Monthly Charges	Recurring Charges: 11/01/2016
11/01/2016	Legal Fees	210.00		8,773.25		Notice of Lien	Barr Unger 11/01/2016
11/05/2016	Late Fee	439.00		9,212.25		Late Fee	Late Fee: 11/05/2016
12/01/2016	Assessment	230.00		9,442.25		Monthly Charges	Recurring Charges: 12/01/2016
12/05/2016	Late Fee	462.00		9,904.25		Late Fee	Late Fee: 12/05/2016
01/01/2017	Assessment	300.00		10,204.25		Monthly Charges	Recurring Charges: 01/01/2017
01/04/2017	Lockbox		-300.00	9,904.25		13472	Lock Box: 01/04/2017
01/05/2017	Late Fee	462.00		10,366.25		Late Fee	Late Fee: 01/05/2017

## Pecan Grove Property Owners Association

Harry Hayden

00126-0988

Community Address: 252 Howle #A2  
Charleston, SC 29412Date Settled:  
Unit Type: 01 - Unit Type 01Mailing Address: 252 Howle #A2  
Charleston, SC 29412Last payment date: Mon Feb 10, 2020  
Last payment amount: 800.00  
Current balance: 42,071.03

Trans Date	Transaction	Charges	Payments	Balance	Date Billed	Reference	Comments
02/01/2017	Assessment	300.00		10,666.25		Monthly Charges	Recurring Charges: 02/01/2017
02/05/2017	Late Fee	492.00		11,158.25		Late Fee	Late Fee: 02/05/2017
02/06/2017	Lockbox		-300.00	10,858.25		509	Lock Box: 02/06/2017
03/01/2017	Assessment	300.00		11,158.25		Monthly Charges	Recurring Charges: 03/01/2017
03/05/2017	Late Fee	492.00		11,650.25		Late Fee	Late Fee: 03/05/2017
03/06/2017	Lockbox		-300.00	11,350.25		13532	Lock Box: 03/06/2017
04/01/2017	Assessment	300.00		11,650.25		Monthly Charges	Recurring Charges: 04/01/2017
04/03/2017	Lockbox		-300.00	11,350.25		13562	Lock Box: 04/03/2017
04/05/2017	Late Fee	462.00		11,812.25		Late Fee	Late Fee: 04/05/2017
05/01/2017	Assessment	300.00		12,112.25		Monthly Charges	Recurring Charges: 05/01/2017
05/05/2017	Late Fee	492.00		12,604.25		Late Fee	Late Fee: 05/05/2017
06/01/2017	Assessment	300.00		12,904.25		Monthly Charges	Recurring Charges: 06/01/2017
06/05/2017	Late Fee	522.00		13,426.25		Late Fee	Late Fee: 06/05/2017
07/01/2017	Assessment	300.00		13,726.25		Monthly Charges	Recurring Charges: 07/01/2017
07/05/2017	Late Fee	552.00		14,278.25		Late Fee	Late Fee: 07/05/2017
07/11/2017	Lockbox		-325.00	13,953.25		13659	Lock Box: 07/11/2017
08/01/2017	Assessment	300.00		14,253.25		Monthly Charges	Recurring Charges: 08/01/2017
08/04/2017	Lockbox		-325.00	13,928.25		13677	Lock Box: 08/04/2017
08/05/2017	Late Fee	517.00		14,445.25		Late Fee	Late Fee: 08/05/2017
09/01/2017	Assessment	300.00		14,745.25		Monthly Charges	Recurring Charges: 09/01/2017
09/05/2017	Late Fee	547.00		15,292.25		Late Fee	Late Fee: 09/05/2017
10/01/2017	Assessment	300.00		15,592.25		Monthly Charges	Recurring Charges: 10/01/2017
10/05/2017	Late Fee	577.00		16,169.25		Late Fee	Late Fee: 10/05/2017
11/01/2017	Assessment	300.00		16,469.25		Monthly Charges	Recurring Charges: 11/01/2017
11/05/2017	Late Fee	607.00		17,076.25		Late Fee	Late Fee: 11/05/2017
12/01/2017	Assessment	300.00		17,376.25		Monthly Charges	Recurring Charges: 12/01/2017
12/05/2017	Late Fee	637.00		18,013.25		Late Fee	Late Fee: 12/05/2017
01/05/2018	Late Fee	637.00		18,650.25		Late Fee	Late Fee: 01/05/2018
02/01/2018	Assessment	600.00		19,250.25		January & February	Recurring Charges: 02/01/2018
02/05/2018	Late Fee	697.00		19,947.25		Late Fee	Late Fee: 02/05/2018
02/26/2018	Lockbox		-300.00	19,647.25		13826	Lock Box: 02/26/2018
02/26/2018	Lockbox		-300.00	19,347.25		13826	Lock Box: 02/26/2018
03/01/2018	Assessment	300.00		19,647.25		Monthly Charges	Recurring Charges: 03/01/2018
03/02/2018	Lockbox		-300.00	19,347.25		13831	Lock Box: 03/02/2018
03/05/2018	Late Fee	680.00		20,027.25		Late Fee	Late Fee: 03/05/2018
04/01/2018	Assessment	300.00		20,327.25		Monthly Charges	Recurring Charges: 04/01/2018
04/03/2018	Lockbox		-300.00	20,027.25		13858	Lock Box: 04/03/2018
04/05/2018	Late Fee	703.78		20,731.03		Late Fee	Late Fee: 04/05/2018
05/01/2018	Assessment	300.00		21,031.03		Monthly Charges	Recurring Charges: 05/01/2018
05/01/2018	Lockbox		-300.00	20,731.03		13883	Lock Box: 05/01/2018
05/05/2018	Late Fee	717.00		21,448.03		Late Fee	Late Fee: 05/05/2018
06/01/2018	Assessment	300.00		21,748.03		Monthly Charges	Recurring Charges: 06/01/2018
06/04/2018	Lockbox		-300.00	21,448.03		13895	Lock Box: 06/04/2018
06/05/2018	Late Fee	742.53		22,190.56		Late Fee	Late Fee: 06/05/2018
07/01/2018	Assessment	300.00		22,490.56		Monthly Charges	Recurring Charges: 07/01/2018
07/03/2018	Lockbox		-300.00	22,190.56		13924	Lock Box: 07/03/2018
07/05/2018	Late Fee	754.00		22,944.56		Late Fee	Late Fee: 07/05/2018

## Pecan Grove Property Owners Association

Harry Hayden

00126-0988

Community Address: 252 Howle #A2  
Charleston, SC 29412Date Settled:  
Unit Type: 01 - Unit Type 01Mailing Address: 252 Howle #A2  
Charleston, SC 29412Last payment date: Mon Feb 10, 2020  
Last payment amount: 800.00  
Current balance: 42,071.03

Trans Date	Transaction	Charges	Payments	Balance	Date Billed	Reference	Comments
08/01/2018	Assessment	300.00		23,244.56		Monthly Charges	Recurring Charges: 08/01/2018
08/07/2018	Lockbox		-300.00	22,944.56		13942	Lock Box: 08/07/2018
08/10/2018	Late Fee	781.28		23,725.84		Late Fee	Late Fee: 08/10/2018
09/01/2018	Assessment	300.00		24,025.84		Monthly Charges	Recurring Charges: 09/01/2018
09/05/2018	Lockbox		-300.00	23,725.84		13978	Lock Box: 09/05/2018
09/10/2018	Late Fee	791.00		24,516.84		Late Fee	Late Fee: 09/10/2018
10/01/2018	Assessment	300.00		24,816.84		Monthly Charges	Recurring Charges: 10/01/2018
10/04/2018	Lockbox		-300.00	24,516.84		13988	Lock Box: 10/04/2018
10/10/2018	Late Fee	821.00		25,337.84		Late Fee	Late Fee: 10/10/2018
11/01/2018	Assessment	300.00		25,637.84		Monthly Charges	Recurring Charges: 11/01/2018
11/05/2018	Lockbox		-300.00	25,337.84		14007	Lock Box: 11/05/2018
11/10/2018	Late Fee	828.00		26,165.84		Late Fee	Late Fee: 11/10/2018
12/01/2018	Assessment	300.00		26,465.84		Monthly Charges	Recurring Charges: 12/01/2018
12/04/2018	Lockbox		-300.00	26,165.84		14023	Lock Box: 12/04/2018
12/10/2018	Late Fee	858.00		27,023.84		Late Fee	Late Fee: 12/10/2018
01/01/2019	Assessment	300.00		27,323.84		Monthly Charges	Recurring Charges: 01/01/2019
01/08/2019	Lockbox		-300.00	27,023.84		14044	Lock Box: 01/08/2019
01/10/2019	Late Fee	865.00		27,888.84		Late Fee	Late Fee: 01/10/2019
02/01/2019	Assessment	300.00		28,188.84		Monthly Charges	Recurring Charges: 02/01/2019
02/05/2019	Lockbox		-300.00	27,888.84		14067	Lock Box: 02/05/2019
02/10/2019	Late Fee	895.00		28,783.84		Late Fee	Late Fee: 02/10/2019
03/01/2019	Assessment	300.00		29,083.84		Monthly Charges	Recurring Charges: 03/01/2019
03/05/2019	Lockbox		-300.00	28,783.84		14086	Lock Box: 03/05/2019
03/10/2019	Late Fee	911.23		29,695.07		Late Fee	Late Fee: 03/10/2019
04/01/2019	Assessment	300.00		29,995.07		Monthly Charges	Recurring Charges: 04/01/2019
04/02/2019	Lockbox		-300.00	29,695.07		14114	Lock Box: 04/02/2019
04/10/2019	Late Fee	932.00		30,627.07		Late Fee	Late Fee: 04/10/2019
05/01/2019	Assessment	300.00		30,927.07		Monthly Charges	Recurring Charges: 05/01/2019
05/07/2019	Lockbox		-300.00	30,627.07		14143	Lock Box: 05/07/2019
05/10/2019	Late Fee	956.63		31,583.70		Late Fee	Late Fee: 05/10/2019
06/01/2019	Assessment	300.00		31,883.70		Monthly Charges	Recurring Charges: 06/01/2019
06/04/2019	Lockbox		-300.00	31,583.70		14159	Lock Box: 06/04/2019
06/10/2019	Late Fee	969.00		32,552.70		Late Fee	Late Fee: 06/10/2019
07/01/2019	Assessment	300.00		32,852.70		Monthly Charges	Recurring Charges: 07/01/2019
07/08/2019	Lockbox		-300.00	32,552.70		14176	Lock Box: 07/08/2019
07/10/2019	Late Fee	999.00		33,551.70		Late Fee	Late Fee: 07/10/2019
08/01/2019	Assessment	300.00		33,851.70		Monthly Charges	Recurring Charges: 08/01/2019
08/10/2019	Late Fee	1,029.00		34,880.70		Late Fee	Late Fee: 08/10/2019
08/13/2019	Lockbox		-400.00	34,480.70		14214	Lock Box: 08/13/2019
09/01/2019	Assessment	300.00		34,780.70		Monthly Charges	Recurring Charges: 09/01/2019
09/04/2019	Lockbox		-400.00	34,380.70		14237	Lock Box: 09/04/2019
09/10/2019	Late Fee	1,034.33		35,415.03		Late Fee	Late Fee: 09/10/2019
10/01/2019	Assessment	300.00		35,715.03		Monthly Charges	Recurring Charges: 10/01/2019
10/03/2019	Lockbox		-400.00	35,315.03		14258	Lock Box: 10/03/2019
10/10/2019	Late Fee	1,043.00		36,358.03		Late Fee	Late Fee: 10/10/2019
11/01/2019	Assessment	300.00		36,658.03		Monthly Charges	Recurring Charges: 11/01/2019
11/05/2019	Lockbox		-400.00	36,258.03		14278	Lock Box: 11/05/2019

## Pecan Grove Property Owners Association

Harry Hayden

00126-0988

Community Address: 252 Howle #A2  
Charleston, SC 29412Date Settled:  
Unit Type: 01 - Unit Type 01Mailing Address: 252 Howle #A2  
Charleston, SC 29412Last payment date: Mon Feb 10, 2020  
Last payment amount: 800.00  
Current balance: 42,071.03

Trans Date	Transaction	Charges	Payments	Balance	Date Billed	Reference	Comments
11/10/2019	Late Fee	1,073.00		37,331.03		Late Fee	Late Fee: 11/10/2019
12/01/2019	Assessment	300.00		37,631.03		Monthly Charges	Recurring Charges: 12/01/2019
12/02/2019	Lockbox		-400.00	37,231.03		14297	Lock Box: 12/02/2019
12/10/2019	Late Fee	1,080.00		38,311.03		Late Fee	Late Fee: 12/10/2019
01/01/2020	Assessment	300.00		38,611.03		Monthly Charges	Recurring Charges: 01/01/2020
01/10/2020	Late Fee	1,110.00		39,721.03		Late Fee	Late Fee: 01/10/2020
02/01/2020	Assessment	300.00		40,021.03		Monthly Charges	Recurring Charges: 02/01/2020
02/10/2020	Lockbox		-800.00	39,221.03		14341	Lock Box: 02/10/2020
02/10/2020	Late Fee	1,110.00		40,331.03		Late Fee	Late Fee: 02/10/2020
03/01/2020	Assessment	300.00		40,631.03		Monthly Charges	Recurring Charges: 03/01/2020
03/10/2020	Late Fee	1,140.00		41,771.03		Late Fee	Late Fee: 03/10/2020
04/01/2020	Assessment	300.00		42,071.03		Monthly Charges	Recurring Charges: 04/01/2020

\$6830 in dues only

# Exhibit B



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

**NOTICE OF LIEN**

**YOU WILL PLEASE TAKE NOTICE** that Pecan Grove Property Owners Association, Inc. does hereby file the within Notice of Lien in accordance with the Master Deed for Pecan Grove Horizontal Property Regime recorded in the R.M.C. Office for Charleston County on April 22, 2005, in Book A534 at Page 600, for delinquent assessments which have not been paid upon the premises described below and carried on the records of the undersigned in the name of the property owner(s) listed herein below in the amount set forth herein, to wit:

**Property Owner(s): Harry Hayden and Shirley Hayden**

**Property Address: 252 Howle Avenue, #A-2, Charleston, SC**

**Legal Description: Unit A-2 in the Pecan Grove Horizontal Property  
Regime**

**TMS #: 343-07-00-287**

**Amount of Lien: Seven Thousand Eight Hundred Thirteen and 25/100 (\$7,813.25) Dollars, which amount is justly due and owed the Pecan Grove Property Owners Association, Inc., as of September 22, 2016.**

The above-described assessments, together with any future unpaid assessments, and attorney's fees constitute a lien on the above described property.

EXECUTED this 3 day of October, 2016

WITNESS:

Pecan Grove Property Owners  
Association, Inc.

Carol M. Benetsky  
Susan E. Gates

BY: [Signature]  
Capers G. Barr, IV  
Its: Attorney

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

ACKNOWLEDGMENT

I, Susan E. Gates, do hereby certify that Pecan Grove Property Owners Association, Inc. by Capers G. Barr, IV, Esquire, its attorney, personally appeared before me this day and acknowledged due execution of the foregoing instrument.

Witness my hand and official seal this 3<sup>rd</sup> day of October, 2016.

[Signature]

Susan E. Gates  
NOTARY PUBLIC - South Carolina  
My Commission Expires: June 28, 2026

# RECORDER'S PAGE



**NOTE:** This page **MUST** remain  
with the original document

**Filed By:**

BARR UNGER & MCINTOSH, L.L.C.

P.O. BOX 1037

CHARLESTON SC 29402 (BOX)

## RECORDED

Date: October 3, 2016

Time: 1:25:31 PM

Book

0587

Page

514

DocType

Notice/Ln

Charlie Lybrand, Register  
Charleston County, SC

**MAKER:**

HAYDEN HARRY AL

# of Sats:

# of Pages: 3

# of References:

**RECIPIENT:**

PECAN GROVE POA

Note:

Recording Fee \$ 10.00

Extra Reference Cost \$ -

Extra Pages \$ -

Postage \$ -

Chattel \$ -

**TOTAL** \$ 10.00

Original Book:

Original Page:

DRAWER **Drawer 5**  
CLERK **ANF**



0587

Book



514

Page



10/03/2016

Recorded Date



3

# Pgs



Original Book



Original Page



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Doc Type



13:25:31

Recorded Time



# Exhibit C



BP1018208

# PGS:

3

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

**NOTICE OF LIEN**

YOU WILL TAKE NOTICE that Pecan Grove Property Owners Association, Inc., does hereby file the within Notice of Lien in connection with Pecan Grove Property Owners Association, Inc. in the sum of \$85,069.81 (representing unpaid regime fees, late fees/interest, \$25.00 for filing fee & other costs and fees) justly due and owing Pecan Grove Property Owners Association, Inc. which has not been paid, upon the premises described herein below and carried in the records of the undersigned in the name of **Shirley Hayden**. The premises affected by the lien is described as follows: Unit A-2 in the Pecan Grove Horizontal Property Regime a/k/a 252 Howle Avenue, #A-2, Charleston, SC 29412. TMS No.: 343-07-00-287.

In witness whereof, Pecan Grove Property Owners Association, Inc. has hereunto set its hand and seal by its undersigned representative, this April 21, 2021.

WITNESSES:

1<sup>st</sup> Witness

2<sup>nd</sup> Witness

**PECAN GROVE PROPERTY  
OWNERS ASSOCIATION, INC.**

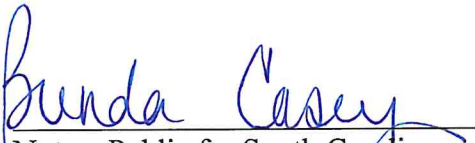
By: Derek F. Dean

Its: Attorney

STATE OF SOUTH CAROLINA    )  
  )  
COUNTY OF CHARLESTON        )

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the above named Pecan Grove Property Owners Association, Inc., by Derek F. Dean, its attorney, personally appeared before me on April 21, 2021 and that the above named acknowledged the due execution of the foregoing instrument.

  
Notary Public for South Carolina

Printed Name of Notary: Brenda Casey

My Commission Expires: July 20, 2026

# RECORDER'S PAGE



**NOTE:** This page **MUST** remain  
with the original document

**Filed By:**

SIMONS & DEAN ATTY AT LAW  
147 WAPPOO CREEK DR  
STE 604  
CHARLESTON SC 29412

## RECORDED

Date: July 28, 2021

Time: 4:06:11 PM

Book	Page	DocType
1018	208	Notice/Ln

Michael Miller, Register  
Charleston County, SC

**MAKER:**

HAYDEN SHIRLEY

# of Pages: 3  
# of Sats:  # of References:

**RECIPIENT:**

PECAN GROVE POA INC

Note:

Recording Fee \$ 25.00

Extra Reference Cost \$ -

Extra Pages \$ -

Postage \$ -

Original Book:

Original Page:

**TOTAL \$ 25.00**

DRAWER Drawer 9  
CLERK BXE



1018  
Book



208  
Page



07/28/2021  
Recorded Date



3  
# Pgs



Original Book



Original Page



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Doc Type



16:06:11  
Recorded Time